

REMARKS/ARGUMENTS

Status of Claims

Claims 1-20 were filed in the present application. These claims have been rejected. As outlined above, Claim 11 has been amended; and Claims 1-10. Therefore, Claims 11-20 are pending in this application and are currently under consideration.

The amended claims are fully supported in the specification as originally filed. In particular, the newly added language in Claim 11 is supported in its preamble.

Rejections

Claims 1-20 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Trepagnier et al., US Pat. Appn. No. 2002/00116534 ("Trepagnier") in view of Vari, US Pat. No. 5,701,902. Applicants respectfully traverse this rejection.

Applicants note that Claims 1-10 have been canceled, and Claims 11-20 remain. The present invention as defined in Claim 11 relates to a method of determining skin health of an area of skin. The method includes (i) exposing a first area of skin to a first exposure radiation to induce said area of skin to emit a first fluorescent emission, wherein said first exposure radiation comprises primarily of wavelengths of from about 290 nm to about 300 nm and wherein said first area of skin was exposed to said treatment; (ii) measuring the intensity of said first fluorescent emission having a wavelength of from about 320 nm to about 350 nm; (iii) exposing said first area of skin to a second exposure radiation to induce said area of skin to emit a second fluorescent emission, wherein said second exposure radiation comprises primarily of wavelengths of from about 330 nm to about 420 nm; (iv) measuring the intensity of said second fluorescent emission having a wavelength of from about 380 nm to about 470 nm; (v) calculating a ratio of said intensity measured in step (ii) to said intensity measured in step (iv); (vi) repeating steps (i) to (v) for a second area of skin, wherein said second area of skin was not exposed to said treatment; and (vii) comparing said ratio for said first area of skin to said ratio for said second area of skin; and (viii) determining and reporting the effect of the skin treatment based on said compared ratios.

Trepagnier purports to disclose instruments and methods for performing non-invasive measurements of analyte levels and for monitoring, analyzing, and regulating tissue status, such as tissue glucose levels.

Vari purports to disclose a spectroscopic burn injury apparatus and method. Vari states that the normal spectroscopic response of certain structural and metabolic constituents in the skin is altered by a burn injury. It allegedly takes advantage of this fact to analyze fluorescent emissions from the skin to determine the extent of the burn damage.

The Office Action indicates that Trepagnier discloses an instrument that is capable of emitting and detecting a first source of radiation (e.g., emitting 285-305 nm and detecting 315-420 nm) and a second source (e.g., emitting 320-370 nm and detecting 420-510 nm). The Action admits that Trepagnier fails to teach using the information it gathers to monitor tissue status. It alleges that one of ordinary skill in the art would recognize that such information that Trepagnier gathers would be useful to determine skin health as allegedly disclosed in Vari.

However, Applicants respectfully submit that Vari fails to teach interpretation of skin data as an indication of skin health, but rather a level of burn damage. Notwithstanding this, Applicants respectfully point out that the combination of Trepagnier and Vari fails to teach or suggest the presently claimed invention. This combination fails to teach or suggest that skin fluorescence data can be used to specifically determine the effectiveness of a skin treatment on such skin. Therefore, Applicants respectfully submit that the Office withdraw this rejection.

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance for this application.

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Respectfully submitted,

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